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Attorneys for The Honorable Robert Z. Mardikian

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE )  
 )  
 )  
No. 58 )  
 )

ANSWER

TO: THE COMMISSION ON JUDICIAL PERFORMANCE

Respondent, ROBERT Z. MARDIKIAN, hereby answers the Notice of Formal Proceedings, by stating that he has been a Judge of the Fresno County Municipal Court and Superior Court as alleged in the notice.

Respondent denies any wilful misconduct in office, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute; that he also denies any conduct amounting to persistent failure or inability to perform his duties as a judge and any violation of his oath to well and faithfully discharge the duties of his office.

Further response to the specific three counts in the Notice of Formal Proceedings is made as follows:

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I

In response to Count One, Respondent admits having had the fourteen (14) listed cases under submission for a period in excess of ninety (90) days. There were good and sufficient reasons for this and Respondent believes the interests of the parties and of justice were best served by his handling of each case. The cases were decided by Respondent when they were ready to be decided and as soon thereafter as he could reach an informed and reasoned decision. Respondent denies that these matters show inability on his part to perform his judicial duties.

Respondent further denies that a previous investigation by the Commission on Judicial Performance during 1982, as well as any communications by him with the Commission in connection with that investigation, has had any bearing on when he did or should have decided those cases listed in Count One, Paragraph A, subparagraphs 8 through 14.

II

In response to Count Two, Respondent denies any improprieties whatever in connection with his execution of salary affidavits or his receipt of salary from 1981 through 1983. Respondent further denies any violations of Constitution or Statute, in connection with either.

Respondent admits having ordered cases resubmitted, but states that it was and is his usual practice to decide all submitted matters within ninety (90) days. Cases in which submitted matters were ordered resubmitted after ninety (90) days were extraordinary and therefore called for resubmission

1 to allow additional time over ninety (90) days for decision.  
2 In each case Respondent believed this was in the interest of  
3 justice and of the parties. Respondent denies any deliberate  
4 and intentional attempt to evade Constitutional and Statutory  
5 requirements in any case in his use of an order for resubmission,  
6 which Respondent has at all times regarded as a proper  
7 judicial procedure.

### 8 III

9 In response to Count Three, Respondent denies any  
10 conduct that is or was prejudicial to the administration of  
11 justice or which brings the judicial office in to disrepute.  
12 Response to Paragraphs A and B of Count Three is further  
13 made by referring to previous responses above. Respondent  
14 further specifically denies that he has ever intentionally  
15 disregarded or refused to perform his duties.

16 In response to Paragraph C of Count Three, Respondent  
17 admits he solicited several county employees to donate  
18 portions of their accrued leave credits to a personal friend  
19 of Respondents, Pat Espinola, pursuant to a Fresno County  
20 personnel practice, in order that she be able to remain away  
21 from work on medically required sick leave, without loss of  
22 salary and termination of benefits.

23 Respondent denies that in so doing, he intentionally  
24 abused either his judicial office or his position as Presiding  
25 Judge of the Fresno County Superior Court. In soliciting  
26 donations of leave time, Respondent was motivated by the  
27 fact that a close personal friend was in a desperate situation  
28 and very much in need of the type of help he solicited.

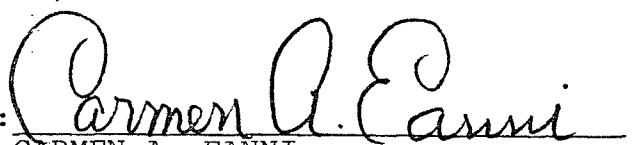
1 Solicitations of donations of leave time have been carried  
2 on by others besides Respondent on behalf of other ill or  
3 injured county personnel.

4 In making the soliciations, Respondent did not intentionally  
5 use the office of Presiding Judge to persuade anyone. He  
6 believed the people contacted were capable of refusing his  
7 request if they chose to. He made a simple direct request  
8 on Ms. Espinola's behalf in each case. In no case did he in  
9 any way attempt to apply any pressure or use his office to  
10 persuade those who were solicited. If any of those contacted  
11 perceived such solicitation as placing undue pressure upon  
12 them, it certainly was not intended by Respondent.

13 Respondent further states that he realizes the solicitations  
14 might give the appearance of impropriety to someone and for  
15 that reason and to that extent only, this conduct on his  
16 part was inappropriate.

17 Dated: April 4, 1984.

18 MILES, SEARS & EANNI


19  
20 By:   
21 CARMEN A. EANNI  
22 Attorneys for The Honorable  
23 Robert Z. Mardikian  
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VERIFICATION

I declare that:

I am the Respondent in the above entitled action; I have read the foregoing Answer and know the contents thereof; the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on April 4, 1984 at Fresno, California.



ROBERT Z. MARDIKIAN  
JUDGE OF THE SUPERIOR COURT  
FRESNO COUNTY

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STATE OF CALIFORNIA

COUNTY OF FRESNO

I am a citizen of the United States and a resident of the County  
aforesaid; I am over the age of eighteen years and not a party to the within  
entitled action; my business address is 2844 Fresno Street, Fresno, California.

On April 4, 1984, I served the within ANSWER

on the parties in said action by placing a true copy thereof enclosed in a  
sealed envelope with postage thereon fully prepaid, in the United States mail  
at Fresno, California, addressed as follows:

Jack E. Frankel, Esq. (Original Answer and 11 copies)  
Director-Chief Counsel  
State of California  
COMMISSION ON JUDICIAL PERFORMANCE  
3052 State Building  
San Francisco, California 94102

Gary Binkerd, Esq.  
Deputy Attorney General  
DEPARTMENT OF JUSTICE  
1515 K Street, Suite 511  
Sacramento, California 95814

I declare, under penalty of perjury, that the foregoing is true  
and correct. EXECUTED this 4th day of April, 1984, at  
Fresno, California.

  
CONNIE THOMAS - Declarant